

# REGULATION OF HIGHLY HAZARDOUS SUBSTANCES AND EXPLOSIVES

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# REGULATION OF HIGHLY HAZARDOUS SUBSTANCES AND EXPLOSIVES

## General Provisions

**NRS 459.380 Legislative declaration.** The Legislature hereby declares that the purposes of [NRS 459.380](#) to [459.3874](#), inclusive, are to:

1. Protect the health, safety and general welfare of the residents of this state from the effects of the improper handling of hazardous chemicals or explosives at the point where:
    - (a) The chemicals are produced, used or stored in this state; or
    - (b) The explosives are manufactured for sale in this state;
  2. Ensure that the employees of this state who are required to work with hazardous chemicals or explosives are guaranteed a safe and healthful working environment;
  3. Protect the natural resources of this state by preventing and mitigating accidental or unexpected releases of hazardous chemicals into the environment; and
  4. Ensure the safe and adequate handling of:
    - (a) Hazardous chemicals that are produced, used, stored or handled in this state; and
    - (b) Explosives that are manufactured for sale in this state.
- (Added to NRS by 1991, 1994; A 1999, [1125](#))

**NRS 459.3802 Definitions.** As used in [NRS 459.380](#) to [459.3874](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 459.3806](#) to [459.38125](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1991, 1994; A 1999, [1125](#), [1919](#), [2007](#); 2003, [1595](#))

**NRS 459.3806 “Division” defined.** “Division” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NRS by 1991, 1994)

**NRS 459.38075 “Facility” defined.** “Facility” means a building, equipment and contiguous area where:

1. Highly hazardous substances are produced, used, stored or handled; or
2. Explosives are manufactured for sale.

(Added to NRS by 1991, 1994; A 1999, [1125](#); 2003, [1595](#))—(Substituted in revision for NRS 459.381)

**NRS 459.3809 “Process” defined.** “Process” means:

1. Any activity that involves a highly hazardous substance or explosive, including, without limitation, the use, storage, manufacture, handling or on-site movement, or any combination thereof of the substance or explosive.
  2. A group of vessels that are used in connection with such an activity, including vessels that are:
    - (a) Interconnected; or
    - (b) Separate, but located in such a manner that a highly hazardous substance or explosive could potentially be released, including, without limitation, the release, fire or explosion in one vessel that could cause a release, fire or explosion in another vessel.
  3. As used in this section:
    - (a) “Explosive” means any material designated as subject to regulation as an explosive pursuant to [NRS 459.3816](#); and
    - (b) “Highly hazardous substance” means a substance designated as highly hazardous pursuant to [NRS 459.3816](#).
- (Added to NRS by 1999, [2006](#); A 2003, [1595](#))

**NRS 459.38125 “Vessel” defined.** “Vessel” means a reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose or other container.

(Added to NRS by 1999, [2007](#))

**NRS 459.3813 Applicability of statutory provisions and regulations to certain facilities; exemptions.**

1. Except as otherwise provided in this section and [NRS 459.3814](#), the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto, apply to a facility:

(a) That is constructing or operating a process which involves a highly hazardous substance in a quantity:

(1) Equal to or greater than the amount designated pursuant to [NRS 459.3816](#); or

(2) Less than the amount designated pursuant to [NRS 459.3816](#) if there are two or more releases from the facility of the same or different highly hazardous substances during any 12-month period and:

(I) The release of the highly hazardous substances is reportable pursuant to 40 C.F.R. Part 302; or

(II) Each quantity released is equal to or greater than a maximum quantity allowable as established by regulation of the State Environmental Commission; or

(b) Where explosives are manufactured for sale.

2. The owner or operator of a facility that is constructing or operating a process described in subsection 1 shall ensure that each process constructed or operated by the facility complies with the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

3. A facility described in subparagraph (2) of paragraph (a) of subsection 1 is exempt from the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto if:

(a) The Division determines that the owner or operator of the facility has complied with such provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and the regulations adopted pursuant thereto, as the Division requires; and

(b) The owner or operator of the facility obtains an exemption from the State Environmental Commission. The State Environmental Commission shall adopt by regulation the procedures for obtaining such an exemption.

4. As used in this section:

(a) "Explosive" means any material designated as subject to regulation as an explosive pursuant to [NRS 459.3816](#).

(b) "Highly hazardous substance" means a substance designated as highly hazardous pursuant to [NRS 459.3816](#).

(Added to NRS by 1997, 1396; A 1999, [1126](#); 2003, [1596](#))

**NRS 459.3814 Applicability of statutory provisions: Excluded activities.** The provisions of [NRS 459.380](#) to [459.3874](#), inclusive, do not apply to:

1. The transportation of any hazardous substances within or through this state which is regulated by the State or the United States Department of Transportation.

2. Any final use of anhydrous ammonia for an agricultural purpose, including storage of the substance on the premises of a farm.

3. Activities which are regulated pursuant to both 30 U.S.C. §§ 801 et seq. and 42 U.S.C. § 7412(r).

(Added to NRS by 1991, 1994; A 1993, 149, 837; 1997, 1398; 2003, [1596](#))

## **Administration**

**NRS 459.3816 Designation of highly hazardous substances and explosives: Regulations; amendment.**

1. The State Environmental Commission shall adopt regulations:

(a) Designating a list of highly hazardous substances, including, without limitation, any chemical, the release of which into the environment or the involvement of which in a fire or explosion would produce a significant likelihood that persons exposed would suffer death or substantial bodily harm as a consequence of the exposure; and

(b) Designating for each such substance a quantity which requires the regulation of that substance pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

2. The Division shall regularly examine sources of information available to it, including, without limitation, studies, guidelines and regulations of the Federal Government and the provisions set forth in 29 U.S.C. § 655 and 42 U.S.C. § 7412(r), and may propose that the State Environmental Commission add or delete a substance or otherwise amend the list of substances and quantities adopted pursuant to subsection 1.

3. The State Environmental Commission shall adopt regulations designating specific materials that are subject to regulation as explosives pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

4. The Division shall regularly examine sources of information available to it, including, without limitation, studies, guidelines and regulations of the Federal Government and the provisions set forth in 18 U.S.C. §§ 841, et seq., and shall consult with the Division of Industrial Relations of the Department of Business and Industry to determine materials that should be regulated as explosives. The Division may propose that the State Environmental Commission add or delete a material or otherwise amend the list of materials adopted pursuant to subsection 3.

(Added to NRS by 1991, 1995; A 1993, 590, 1630; 1997, 1398; 1999, [1116](#), [1212](#); 2001, [79](#); 2003, [1597](#))

**NRS 459.3818 State Environmental Commission to adopt regulations; Division to administer and enforce statutory provisions and regulations; involvement of interested persons; applicability of statutory provisions to dealers of liquefied petroleum gas.**

1. In addition to the regulations required to be adopted pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, the State Environmental Commission shall adopt such other regulations as are necessary to carry out the purposes and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive. The regulations must include, without limitation:

(a) Specifications for the applicability of the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto;

(b) The establishment of a program for the prevention of accidental releases of chemicals that satisfies the provisions of the chemical process safety standard set forth pursuant to 29 U.S.C. § 655;

(c) Provisions necessary to enable the Division to administer and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto;

(d) Requirements for the registration of a facility with the Division; and

(e) Provisions to ensure that the public is involved in the process of evaluating proposed regulatory actions that may affect the public.

2. The Division shall:

(a) Administer and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto; and

(b) Make every effort to involve advisory councils on hazardous materials, where they exist, the governing bodies of local governments and other interested persons in explaining actions taken pursuant to those sections and the regulations adopted pursuant thereto.

3. The State Environmental Commission must apply the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, to dealers of liquefied petroleum gas who sell, fill, refill, deliver or are permitted to deliver any liquefied petroleum gas in a manner that is consistent with 42 U.S.C. § 7412(r)(4)(B).

4. As used in this section, “liquefied petroleum gas” has the meaning ascribed to it in [NRS 590.475](#).

(Added to NRS by 1991, 1998; A 2003, [1601](#))

**NRS 459.3819 Inspections by state and local agencies of facilities where explosives are manufactured, used, processed, handled, moved on site or stored.**

1. The Division shall enter into cooperative agreements with state and local agencies to provide inspections of facilities where explosives are manufactured, or where an explosive is used, processed, handled, moved on site or stored in relation to its manufacture. The Division shall schedule the inspections in such a manner as to provide an opportunity for participation by:

(a) A representative of the fire-fighting agency that exercises jurisdiction over the facility;

(b) A representative of the law enforcement agency that exercises jurisdiction over the facility; and

(c) Representatives of the Division and any other state agency responsible for minimizing risks to persons and property posed by such facilities.

2. The owner or operator of such a facility shall make the facility available for the inspections required by this section at such times as are designated by the Division.

3. Any inspection of a facility conducted pursuant to this section is in addition to, and not in lieu of, any other inspection of the facility required or authorized by state statute or regulation, or local ordinance.

4. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.

(Added to NRS by 1999, [1918](#); A 2003, [1601](#))

**NRS 459.38195 Investigation of certain accidents: Powers and duties of Division; duty of owner or operator of facility to cooperate.**

1. The Division may investigate an accident occurring in connection with a process that involves one or more highly hazardous substances or explosives at a facility which results in an uncontrolled emission, fire or explosion and which presented an imminent and substantial danger to the health of the employees of the facility, the public health or the environment, to determine the cause of the accident if the owner or operator of the facility:

- (a) Is unwilling to commence and has not commenced an investigation in a timely manner; or
- (b) Is not capable of and has not retained expertise capable of conducting an investigation.

2. If the Division chooses to conduct such an investigation, the owner or operator of the facility shall, in a manner consistent with the safety of the employees of the Division and the facility, and without placing an undue burden on the operation of the facility, cooperate with the Division by:

(a) Allowing the Division:

(1) To investigate the accident site and directly related facilities, including, without limitation, control rooms;

(2) To examine physical evidence; and

(3) If practicable, to inspect equipment both externally and internally;

(b) Providing the Division with pertinent documents; and

(c) Allowing the Division to conduct independent interviews of the employees of the facility, subject to all rights of the facility and the employees to be represented by legal counsel, management representatives and union representatives during the interviews.

3. To the maximum extent feasible, the Division shall coordinate any investigation it conducts pursuant to this section with investigations conducted by other agencies with jurisdiction over the facility to minimize any adverse impact on the facility and its employees.

4. The Division may contract for the services of a technical expert in conducting an investigation pursuant to this section and may recover its costs for such services from the owner or operator of the facility.

5. If an investigation is conducted by the Division pursuant to this section, all costs incurred by the Division in conducting the investigation, including, without limitation, the costs of services provided pursuant to subsection 4, may be recovered by the Division from the owner or operator of the facility at which the accident occurred.

6. The State Environmental Commission may adopt regulations setting forth the procedures governing an investigation conducted by the Division pursuant to this section and the procedures for the recovery by the Division of all costs incurred by the Division in conducting the investigation.

(Added to NRS by 2003, [1594](#))

**NRS 459.382 Reports of regulatory agencies; review of requirements of regulatory agencies; final authority of Division.**

1. The Health Division of the Department of Human Resources, the Division of Industrial Relations of the Department of Business and Industry and any other governmental entity or agency of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances shall submit to the Division of Environmental Protection such reports as the Division deems necessary to carry out the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto. The reports must be submitted at such times and contain such information as required by the Division.

2. The State Environmental Commission shall adopt by regulation common reporting forms to be used by such governmental entities and agencies when reporting information related to hazardous substances and facilities.

3. The Division shall review the rules, regulations, standards, codes and safety orders of other governmental entities and agencies of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances to ensure that they are sufficient to carry out the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

4. If the Division and any other governmental entity or agency of the State have coexisting jurisdiction over the regulation of facilities or hazardous substances located at such facilities, the Division has the final authority to take such actions as are necessary to carry out the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

(Added to NRS by 1991, 1998; A 1993, 594, 1634; 2003, [1602](#))

**NRS 459.3822 Records, reports and other information of facility: Submission by owner or operator of facility; availability for public inspection; confidentiality of information protected as trade secret; regulations.**

1. The owner or operator of a facility shall, upon request, submit any records, reports or other information to the Division that the Division deems necessary to administer and enforce the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto.

2. Except as otherwise provided in this section, any records, reports or other information obtained pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto must be made available to the public for inspection and copying.

3. The Division shall protect the confidentiality of any information obtained by the Division, including, without limitation, any information obtained through an observation made by the Division during a visit to a facility if:

(a) The owner or operator of the facility from which the information was obtained or which was visited requests such protection; and

(b) The information satisfies the conditions for protection as a trade secret pursuant to subsection 4.

4. Information is entitled to protection as a trade secret under this section only if:

(a) The information has not been disclosed to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a state or local government, an employee of such a person, or a person who is bound by an agreement of confidentiality, and the owner or operator of the facility has taken reasonable measures to protect the confidentiality of the information and intends to continue to take such measures;

(b) The information is not required to be disclosed, or otherwise made available, to the public under any other federal or state law;

(c) Disclosure of the information is likely to cause substantial harm to the competitive position of the owner or operator of the facility; and

(d) The chemical identity of a substance, if that is the information, is not readily discoverable through analysis of the product containing it or scientific knowledge of how such a product must be made.

5. The State Environmental Commission shall adopt regulations for the protection of the confidentiality of information entitled to protection as a trade secret pursuant to this section.

6. The person requesting the copy or copies of the public records, shall tender or pay to the Division such fee as may be prescribed for the service of copying.

(Added to NRS by 1991, 2008; A 2003, [1603](#))

**NRS 459.3824 Annual fees; Fund for Precaution Against Chemical Accidents.**

1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the State Environmental Commission and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to [NRS 459.3829](#); and

(b) If any regulations adopted pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the Department of Taxation upon compliance by the owner with [NRS 360.780](#).



6. All fees fines, penalties and other money collected pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, and any regulations adopted pursuant thereto, other than a fine collected pursuant to subsection 3 of [NRS 459.3834](#), must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

(Added to NRS by 1991, 1999; A 1993, 907; 1999, [1126](#), [2007](#); 2003, [346](#), [1604](#); 2003, 20th Special Session, [207](#))

**NRS 459.3829 Permits to construct or commence operation of new process: Requirements; application; regulations; fee.**

1. No owner or operator of a facility may commence construction or operation of any new process that will be subject to regulation pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto, unless he first obtains all appropriate permits from the Division to construct the new process and commence operation of the new process. Before issuing any such permits, the Division of Environmental Protection shall consult with the Division of Industrial Relations of the Department of Business and Industry.

2. An application for such a permit must be submitted on a form prescribed by the Division of Environmental Protection.

3. The State Environmental Commission shall adopt regulations establishing the requirements for the issuance of a permit pursuant to this section. An applicant shall comply with requirements that the State Environmental Commission establishes by regulation for the issuance of a permit before the applicant may receive a permit from the Division for the construction and operation of the process.

4. The Division may charge and collect a fee for the issuance of such a permit.

(Added to NRS by 1999, [2007](#); A 2003, [346](#), [1605](#))

**NRS 459.3832 Regulations concerning certification of records, reports and information submitted to Division; requirements for signature on certification.**

1. The State Environmental Commission shall adopt regulations setting forth:

- (a) The records, reports and information submitted to the Division which must contain a certification; and
- (b) The requirements of such certifications.

2. Each certification must be signed by the sole proprietor of the facility, the highest ranking corporate officer or partner at the facility, the manager of the facility, or a person designated by any one of those persons to sign the certification.

(Added to NRS by 1991, 2001; A 2003, [1605](#))

**NRS 459.3833 Program to prevent and minimize consequences of accidental release of hazardous substance: Delegation of authority and grant of money from Federal Government; regulations.**

1. The State Department of Conservation and Natural Resources may, in accordance with the authority granted to it pursuant to [NRS 445B.205](#), apply for and accept any delegation of authority and any grant of money from the Federal Government for the purpose of establishing and carrying out a program to prevent and minimize the consequences of the accidental release of hazardous substances in accordance with the provisions of 42 U.S.C. § 7412(r).

2. The State Environmental Commission may adopt regulations necessary to establish and carry out such a program.

(Added to NRS by 1997, 1397; A 2003, [1605](#))

**NRS 459.3834 Unlawful acts; penalties.**

1. A person shall not knowingly:

- (a) Violate any provision of [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto;
- (b) Make any false material statement, representation or certification in any required form, notice or report; or
- (c) Render inaccurate any required monitoring device or method.

2. Except as otherwise provided in subsection 3, a person who violates subsection 1 shall be punished by a fine of not more than \$25,000 per day of the violation, and each day on which the violation continues constitutes a separate and distinct violation.

3. A person who violates subsection 1 in a manner that contributes to the substantial bodily harm or death of any person is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), or by a fine of not more than \$50,000 for each day of the violation, or by both fine and the punishment provided in [NRS 193.130](#).

(Added to NRS by 1997, 1398; A 2003, [1606](#))

## **Committee to Oversee the Management of Risks**

**NRS 459.3862 “Committee” defined.** As used in [NRS 459.3862](#) to [459.3868](#), inclusive, unless the context otherwise requires, “Committee” means a Committee to Oversee the Management of Risks, created pursuant to [NRS 459.3864](#).

(Added to NRS by 1991, 2006)

**NRS 459.3864 Creation; appointment of members; appointment of Chairman and Cochairman; resources.**

1. When there is an accident which poses a significant danger to public health and safety, or a near accident of this nature, in a facility or a group of facilities, or when the Governor declares that a Committee to Oversee the Management of Risks in a facility, or group of facilities, would be in the best interests of the public health and safety, the Governor shall create such a Committee for the facility or group of facilities which may represent a catastrophic threat to public health and safety.

2. To the extent practicable, the Governor shall appoint the members of the Committee from the membership of the State Emergency Response Commission.

3. The Governor shall appoint to the Committee at least three persons who represent the facility or group of facilities which may represent a catastrophic threat to public health and safety.

4. The Governor shall appoint the Chairman and may appoint a Cochairman of the Committee from among the members.

5. The Division shall provide to the Committee necessary resources such as clerical assistance and funding sufficient for the Committee to perform its duties.

(Added to NRS by 1991, 2006)

**NRS 459.3866 Receipt of records and documents; subpoena; informal inquiries; confidentiality of trade secret or information; inspection of facility; Attorney General is counsel for Committee; authorization to make recommendations to reviewing authority.**

1. After giving reasonable notice to the facility it oversees and after making arrangements to ensure that the normal operations of the facility will not be disrupted, a Committee is entitled to receive from the facility such records and documents as the Committee demonstrates are required to carry out its duties. The Committee is entitled to receive only those records and documents which cannot be obtained from the Division.

2. A Committee is entitled to receive from any governmental entity or agency records, documents and other materials relevant to the Committee’s review and evaluation of the facility to carry out its duties.

3. In carrying out its duties a Committee and the Attorney General may, by subpoena, require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary. Before obtaining such a subpoena, the Committee or the Attorney General shall request the attendance of the witness or the production of the reports, papers, documents or other evidence. If the person to whom the request is made fails or refuses to attend or produce the reports, documents or other evidence, the Committee and the Attorney General may obtain the subpoena requiring him to do so.

4. In carrying out its duties, a Committee may make informal inquiry of persons or entities with knowledge relevant to the Committee’s review and evaluation of the facility it oversees. Any Committee which makes such informal inquiries shall advise the facility of those inquiries and of the results of the inquiries.

5. If the owner or operator of a facility claims that the disclosure of information to a Committee will reveal a trade secret or confidential information, the owner or operator must specifically identify such information as confidential. When such an identification has been made, the Committee shall protect the confidentiality of the trade secret or information if the trade secret or information would be entitled to protection pursuant to [NRS 459.3822](#).

6. A Committee or its authorized representative may, to carry out its duties, enter and inspect the facility overseen, its records and other relevant materials. Before such an inspection is made, the Committee shall provide reasonable notice to the facility. The inspection must be conducted in such a manner as to ensure that the operations of the facility will not be disrupted.

7. The Attorney General is counsel and attorney to each Committee for the purposes of carrying out its duties and powers.

8. The members of a Committee may make public comment with regard to their review and evaluation of the facility it oversees. At least 24 hours before making any formal comment, the Committee shall advise the facility of its intention to do so and provide the facility with a summary of the comments that will be made.



9. A Committee may review and make recommendations to the reviewing authority as to any applications for permits to construct, substantially alter or operate submitted by a facility which has been the subject of the Committee's review and evaluation.

(Added to NRS by 1991, 2007; A 2003, [1607](#))

#### **NRS 459.3868 Duties.**

1. A Committee shall conduct a comprehensive review and evaluation of the following with respect to each facility within its jurisdiction:

(a) The degree of compliance with [NRS 459.380](#) to [459.3874](#), inclusive, the applicable fire codes, the regulations, standards and safety orders of the Division of Industrial Relations of the Department of Business and Industry, the rules, regulations and standards of the State Environmental Commission and any other standards adopted by the Federal Government, State of Nevada or local governments and their respective agencies for the health and safety of persons and property which may be at risk if those rules, regulations, standards, codes and safety orders are not complied with;

(b) The effectiveness of the respective governmental entities and their agencies' enforcement of their respective rules, regulations, standards, codes and safety orders; and

(c) The adequacy and effectiveness of the plans for response to emergencies adopted for the area in which the facility is located in responding to risks posed to the persons and property located within the zone of risk.

2. A Committee shall exercise its best efforts to facilitate cooperation among the various governmental entities and agencies responsible for minimizing risks to persons and property posed by the facility within its jurisdiction and the effective enforcement of the various governmental entities' and agencies' rules, regulations, standards, codes and safety orders. A Committee shall cooperate to the extent necessary with other committees and governmental agencies to minimize the duplication of records, reports or other information.

3. A Committee shall issue a final report of its comprehensive review and evaluation together with any recommendations. A Committee shall make such interim reports as it or the Governor may deem in the public interest. The Division shall distribute the reports to the Governor, members of the Committee, local governments within the zone of risk, the various governmental agencies whose rules, regulations, standards, codes or safety orders were the subject of the Committee's review and evaluation, and the local media. Copies of the final written report must be made available to the public for purchase at cost of reproduction. All interim reports must be distributed forthwith in the same manner as annual written reports.

(Added to NRS by 1991, 2007; A 1993, 595, 1634)

### **Enforcement and Penalties**

#### **NRS 459.387 Entry into facility to verify compliance with statutory requirements and regulations; issuance of order.**

1. The Division may enter any facility:

(a) During normal business hours; and

(b) At any other time if there is probable cause to believe that a violation of any of the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, or any regulation adopted pursuant thereto, has occurred,

↳ to verify compliance with the provisions of [NRS 459.380](#) to [459.3874](#), inclusive, any regulation adopted pursuant thereto and the quality of all work performed pursuant to those sections, except that the owner or operator of a facility need not employ any personnel solely to assure access to the facility by the Division when this access would otherwise be impossible.

2. The State Environmental Commission shall adopt regulations establishing requirements for:

(a) The inspection of a facility; and

(b) The report of a record of inspection.

3. If the Administrator of the Division finds that any person is engaging, is about to engage or has engaged in an act or practice that violates any provision of [NRS 459.380](#) to [459.3874](#), inclusive, any regulation adopted pursuant thereto, or any term or condition of a permit issued by the Division pursuant to [NRS 459.380](#) to [459.3874](#), inclusive, the Administrator may issue an order:

(a) Specifying the provision, regulation, term or condition that is alleged to have been violated or which is about to be violated;

(b) Setting forth the facts alleged to constitute the violation;

(c) Prescribing any corrective action that must be taken and a reasonable time within which that action must be taken; and

(d) Requiring the person to whom the order is directed to appear before the Administrator or a hearing officer to show cause why the Division should not commence an action for appropriate relief.

4. If the Administrator finds that the handling of a highly hazardous substance or explosive at a facility presents an imminent and substantial threat to human health or the environment, the Administrator may, after the Division has inspected the site and after the Administrator has had a consultation with the owner or operator of the facility and the owner or operator fails to correct the threat, issue an order requiring the owner or operator of the facility to take necessary steps to prevent the act or eliminate the practice that constitutes the threat.

(Added to NRS by 1991, 1998; A 2003, [1607](#))

**NRS 459.3872 Injunctive relief; levy of civil administrative penalty; notice of levy of penalty; request for hearing; payment of penalty.**

1. If any person violates any of the provisions of [NRS 459.380](#) to [459.3834](#), inclusive, or [459.387](#), or any regulation or order adopted or issued pursuant thereto, the Division may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent the violation and the court may proceed in the action in a summary manner.

2. Except as otherwise provided in [NRS 445C.010](#) to [445C.120](#), inclusive, a person who violates a provision of [NRS 459.380](#) to [459.3834](#), inclusive, or [459.387](#), or any regulation or order adopted pursuant thereto, is liable to a civil administrative penalty as set forth in [NRS 459.3874](#). If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense. No civil administrative penalty may be levied until after notification to the violator by certified mail or personal service. The notice must include a reference to the section of the statute, regulation, order or condition of a permit violated, a concise statement of the facts alleged to constitute the violation, a statement of the amount of the civil penalties to be imposed and a statement of the violator's right to a hearing. The violator has 20 days after receipt of the notice within which to deliver to the Division a written request for a hearing. After the hearing if requested, and upon a finding that a violation has occurred, the Administrator of the Division may issue a final order and assess the amount of the fine. If no hearing is requested, the notice becomes a final order upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other provisions for enforcement of [NRS 459.380](#) to [459.387](#), inclusive, and the payment of a civil administrative penalty does not affect the availability of any other provision for enforcement in connection with the violation for which the penalty is levied.

(Added to NRS by 1991, 2008; A 1997, 1081; 1999, [1131](#), [2008](#); 2003, [1609](#))

**NRS 459.3874 Amount of civil administrative penalties; settlement of claim; imposition of civil penalty.**

1. The civil administrative penalties are:

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
A. Failure to register a new or existing facility:..... day	\$25,000 plus \$2,000 per from the due
date	
B. Failure to pay the fee required pursuant to <a href="#">NRS 459.3824</a> :. 75 percent of the fee	
C. Failure to provide information requested by the Division:..... \$25,000	
D. Failure to grant access to employees or agents of the Division for inspections: \$25,000	
E. Failure to provide information or grant access to employees or agents of the Division during an emergency:..... \$50,000	
F. Falsification of information submitted to the Division:up to \$10,000 per incident	
G. Failure to obtain a permit for the construction of a new facility:..... \$25,000	
H. Failure to comply with a regulation adopted pursuant to <a href="#">NRS 459.380</a> to <a href="#">459.3874</a> , inclusive, other than a regulation for which a civil administrative penalty is set forth in category A to G, inclusive:..... \$10,000 per incident	

The civil administrative penalty prescribed in category H may be assessed for each regulatory provision that is violated. The civil administrative penalty prescribed in category G may be assessed against a contractor who is constructing the facility only if the contractor is contractually responsible for obtaining all appropriate permits for the construction of the facility and the contractor knows or has reason to know the planned use of the facility.

2. The Division may compromise and settle any claim for any penalty as set forth in this section in such amount in the discretion of the Division as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator. If a violator is subject to the imposition of more than one civil administrative penalty for the same violation, the Division shall compromise and settle the claim for the penalty as set forth in this section in such amount as to avoid the duplication of penalties.

3. No penalty may be imposed pursuant to this section for the failure to perform a required act within the time required if the delay was caused by a natural disaster or other circumstances which are beyond the control of the violator.

4. Any person who violates any of the provisions of [NRS 459.380](#) to [459.3834](#), inclusive, or [459.387](#), or any regulation or order adopted or issued pursuant thereto, or an administrative order issued pursuant to subsection 2 of [NRS 459.3872](#) or a court order issued pursuant to subsection 1 of [NRS 459.3872](#), or who fails to pay a civil administrative penalty in full is subject, upon order of the court, to a civil penalty not to exceed \$10,000 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed pursuant to this subsection may be recovered with costs in a summary proceeding by the Attorney General.

(Added to NRS by 1991, 2009; A 1999, [1131](#), [2009](#); 2003, [1609](#))